

Serial No. 09/913,578

### REMARKS

Claims 1-16 and 21-25 are pending in the application.

Claims 1, 6, 9, 12-16 and 21-25 are rejected under 35 U.S.C. 102 (e) as being anticipated by United States Patent No. 6,466,348, hereinafter, Izumi.

Claims 2-5, 7-8 and 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Izumi in view of United States Patent No. 4,701,904 issued to Darcie on October 20, 1987.

Each of the various rejections is overcome by various amendments and arguments that are presented.

Any amendments to any claim for reasons other than as expressly recited herein as being for the purpose of distinguishing such claim from known prior art are not being made with an intent to change in any way the literal scope of such claims or the range of equivalents for such claims. They are being made simply to present language that is better in conformance with the form requirements of Title 35 of the United States Code or is simply clearer and easier to understand than the originally presented language. Any amendments to any claim expressly made in order to distinguish such claim from known prior art are being made only with an intent to change the literal scope of such claim in the most minimal way, i.e., to just avoid the prior art in a way that leaves the claim novel and not obvious in view of the cited prior art, and no equivalent of any subject matter remaining in the claim is intended to be surrendered.

Also, since a dependent claim inherently includes the recitations of the claim or chain of claims from which it depends, it is submitted that the scope and content of any dependent claims that have been herein rewritten in independent form is exactly the same as the scope and content of those claims prior to having been rewritten in independent form. That is, although by convention such rewritten claims are labeled herein as having been "amended," it is submitted that only the format, and not the content, of these claims has been changed. This is true whether a dependent claim has been rewritten to expressly include the limitations of those claims on which it formerly depended or whether an independent claim has been rewriting to include the limitations of claims that previously depended from it. Thus, by such rewriting no equivalent of any subject matter of the original dependent claim is intended to be surrendered. If the Examiner is of a different view, he is respectfully requested to so indicate.

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**REJECTIONS****35 U.S.C. §102****Claims 1, 6, 9, 12-16 and 21-25**

Claims 1, 6, 9, 12-16 and 21-25 are rejected under 35 U.S.C. 102 (e) as being anticipated by United States Patent No. 6,466,348 (Izumi).

This ground of rejection is respectfully traversed.

The independent claims 1, 9 and 25 include the feature of a control device for combining the channels of the upstream east-west optical signal with the channels of the upstream west-east optical signal to provide thereby at least one valid copy of each channel in response to a disruption to the control information. This is not taught or suggested by Izumi, which shows in column 18, lines 11-54 that the control unit monitors a level of a signal actually transmitted that has been amplified by an optical amplifier. The Izumi control unit merely adopts the optical amplifiers to maintain a gain parameter. Thus, clearly, does not teach or suggest the claimed invention.

Since all of the dependent claims that depend from the current amended independent claims include all the limitations of the respective independent claim from which they ultimately depend, each such dependent claim is also allowable over Izumi. Therefore, claims 1, 6, 9, 12-16 and 21-25 are allowable over Izumi under 35 U.S.C. §102.

**35 U.S.C. §103****Claims 2-5, 7-8 and 10-11**

Claims 2-5, 7-8 and 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Izumi in view of United States Patent No. 4,701,904 issued to Darcie on October 20, 1987.

Each of this ground of rejection applies only to dependent claims, and each is predicated on the validity of the rejection under 35 U.S.C. 102 given Izumi. Since the rejection under 35 U.S.C. 102 given Izumi has been overcome, as described hereinabove, and there is no argument put forth by the Office Action that Darcie supplies that which is missing from Izumi to render the independent claims anticipated, this ground of rejection cannot be maintained.

Therefore, applicants' claims 2-5, 7-8 and 10-11 are allowable under 35 U.S.C. §103.

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CONCLUSION

It is respectfully submitted that the Office Action's rejections have been overcome and that this application is now in condition for allowance. Reconsideration and allowance are, therefore, respectfully solicited.

If, however, the Examiner still believes that there are unresolved issues, the Examiner is invited to call Eamon Wall at (732) 530-9404 so that arrangements may be made to discuss and resolve any such issues.

Respectfully submitted,

Dated: 2/27/06



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